

U.S. Patent Application Serial No. 09/631,000  
Amendment dated February 1, 2008  
Reply to Office Action of August 1, 2007

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### REMARKS

Claims 1, 6, 7, 10, 15, 16, 19, 26, and 32 were amended, and claim 20 was cancelled without prejudice. Claims 21, 22, and 25 are currently withdrawn from consideration. Claims 1-32 are currently pending. In light of the following remarks, the applicant requests withdrawal of the pending rejections and advancement of this application to allowance.

#### Preliminary Matters

In paragraph 14 of the Office Action, the examiner suggested amending the claims to clarify whether the batch-downloading of the data items into the memory of the pump is patient-specific data. The applicants have amended independent claims 1, 7, 10, 16, and 26 to clarify that at least some of the data downloaded into the pump is patient-specific. The applicant thanks the examiner for suggesting this amendment, which is intended to be clarifying only.

Claims 6, 15, 19, and 32 were amended to correct typographical errors. These amendments are intended to be clarifying only.

#### Rejection under 35 U.S.C. § 101

Claim 20 stands rejected as being non-patentable subject matter. The applicant respectfully traverses this rejection and does not concede any characterization of the claim set forth in the office action. To expedite prosecution of this application, however, the applicant has cancelled claim 20 and respectfully requests withdrawal of the pending rejection.

#### Rejection under 35 U.S.C. § 112

Claim 20 stands rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as his invention. The applicant respectfully traverses this rejection and does not concede any characterization of the claim set forth in the office action. To expedite prosecution of this application, however, the applicant has cancelled claim 20 and respectfully requests withdrawal of the pending rejection.

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**Rejection Under 35 U.S.C. § 103**

**Claims 1-3, 6-20, 23, 24, and 26-32**

Claims 1-3, 6-20, 23, 24, and 26-32 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) and in view of official notice. The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action. Claim 20 was cancelled and the rejection of this claim is now moot.

Claim 1-3, 6-19, and 26-32 set forth that at least some of the program data batch-downloaded into memory on the pump are patient-specific data items. None of the cited references teach or suggest this element and thus no combination of the references can result in the claimed combination of element. Claim 20 was cancelled and the rejection of this claim is now moot.

For example, the office action admits, "Peterson does not explicitly disclose at least some of the data items establishing parameters for controlling operation of a medical pump entering a plurality of data items into a data base on the computer." The office action then states Eggers includes this teaching with the notation that Eggers discloses downloading drug libraries at col. 10, line 62-col. 11, line 7. The office action takes the position that downloading a drug library wherein each drug library can be customized for each user is equivalent to batch downloading for a specific patient.

However, Eggers teaches downloading drug libraries to a patient care system and storing the libraries (including drug names, proper concentrations, dosages, and limits) on a PCMCIA memory, which is a PC card having a form factor adaptable to a laptop computer. Drug names, proper concentrations, dosages, and dose limits are not patient-specific parameters or data. Furthermore, Eggers states, "a personal computer can be used to create drug libraries, which can be customized for each user of the patient care system . . . ." Col. 11, lines 1-2. It then teaches these customized libraries are stored on a PCMCIA memory card, which is a memory card adapted to for insertion into a PCMCIA interface for later use. Col. 11, lines 3-7. This passage teaches customizing the library, i.e., selecting which drug programs to include in a custom library that a user can store for later use. For example, for pumps in surgical ward, the PCMCIA memory might be load with a library of programs for delivering pain medication. This passage

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does not teach downloading patient-specific data or even programming the pump for a specific patient.

Eggers does not teach batch-down loading the plurality of data items into memory within the pump, at least some of the data items batch-downloaded into memory being patient-specific data items as set forth in the claims.

The Official Notice does not relate to batch downloading the plurality of data items into memory within the pump, at least some of the data items batch downloaded into memory being patient-specific data items as set forth in the claims.

Therefore, no combination of the cited references or official notice will result in the claimed combination of elements. The applicant respectfully requests reconsideration and withdrawal of the pending rejection.

**Claims 4 and 5**

Claims 4 and 5 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) in View of Official Notice as applied to claim 3 and further in view of "Acute Health Solutions." The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action.

Claims 4 and 5 depend from claim 1 and also set forth that at least some of the program data batch-downloaded into memory on the pump are patient-specific data items.

As discussed above, Peterson, Eggers, and the Official Notice fail to teach or suggest a combination that includes this element. Acute Health Solutions also fails to teach or suggest these elements. Therefore, no combination of the cited references or official notice will result in the claimed combination of elements. The applicant respectfully requests reconsideration and withdrawal of the pending rejection.

**Claims 26-32**

Claims 26-32 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857). The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action.

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Claims 26-31 set forth that at least some of the program data batch-downloaded into memory on the pump are patient-specific data items.

The office action admits, "Peterson does not explicitly disclose at least some of the data items establishing parameters for controlling operation of a medical pump entering a plurality of data items into a data base on the computer." The office action then states Eggers includes this teaching with the notation that Eggers discloses downloading drug libraries at col. 10, line 62-col. 11, line 7. The office action takes the position that downloading a drug library wherein each drug library can be customized for each user is equivalent to batch downloading for a specific patient.

However, Eggers teaches downloading drug libraries to a patient care system and storing the libraries (including drug names, proper concentrations, dosages, and limits) on a PCMCIA memory, which is a PC card having a form factor adaptable to a laptop computer. Drug names, proper concentrations, dosages, and dose limits are not patient-specific parameters or data. Furthermore, Eggers states, "a personal computer can be used to create drug libraries, which can be customized for each user of the patient care system . . . ." Col. 11, lines 1-2. It then teaches these customized libraries are stored on a PCMCIA memory card, which is a memory card adapted to for insertion into a PCMCIA interface. Col. 11, lines 3-4. This passage teaches customizing the library, i.e., selecting which drug programs to include in a custom library that a user can store for later use. For example, for pumps in surgical ward, the PCMCIA memory might be load with a library of programs for delivering pain medication. This passage does not teach downloading patient-specific data or even programming the pump for a specific patient.

Eggers does not teach batch-down loading the plurality of data items into memory within the pump, at least some of the data items batch-downloaded into memory being patient-specific data items as set forth in the claims.

Therefore, no combination of the cited references or official notice will result in the claimed combination of elements. The applicant respectfully requests reconsideration and withdrawal of the pending rejection.

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**CONCLUSION**

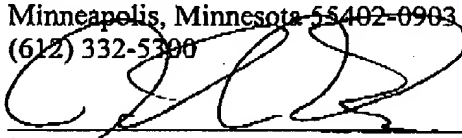
In view of the foregoing remarks, the applicant respectfully requests withdrawal of the pending rejection and advancement of this application to issuance. The applicant also notes that there may be additional reasons that the claimed invention is patentably distinct from the cited references in addition to those raised in the above remarks. The applicant reserves the right to raise any such reason in the future.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned attorney at (612) 336-4608.

Respectfully submitted,

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Date: February 1, 2008

  
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